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TÍTULO DEL TRABAJO:
**Anti-dumping measures: a step back in international trade or a legitimate reaction
against unfair practices?**

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ABSTRACT

In the relatively recent past, and particularly since Donald Trump took over the presidency of the United States, there has been a trend towards nationalism, "domestic shopping" in terms of production and trade, with barriers and tariffs being imposed on the import of certain products and services. What is certain is that competitive imbalances exist and that, at least in the medium term, they will continue to exist. It is precisely this artificial alteration of competitiveness that is harmful to world trade, for some of the reasons that this paper seeks to analyse from the point of view of its compensation or neutralisation by means of the tools that the regulator and coordinator of international trade - the World Trade Organisation - makes available to countries when these abusive and distorting practices of the global competitive balance are detected: anti-dumping measures. (Ross Denton Baker & Mckenzi, 1989) For developing these main ideas, the project is structured in seven sections as follows. First, the framework is established with an introduction followed by the theoretical framework related to what antidumping measures are and when they can be applied. Section 3 explains the World Trade Organisation as the main body governing trade relations followed by a section devoted to the European Union and the construction of the single market 4 considering antidumping measures to guarantee it. Then, section 5 shows the empirical evidence related to anticompetitive practices through a real case study which is concreted with a local example from Navarra. This example will show the importance of an adequate application of antidumping regulations for the elimination of artificial competitive advantages. Finally, some conclusions are stated considering the potential scenarios that COVID-19 may arise.

RESUMEN

En un pasado relativamente reciente, y en particular desde que Donald Trump asumió la presidencia de los Estados Unidos, ha habido una tendencia al nacionalismo hacia las "compras domésticas" en términos de producción y comercio, con barreras y aranceles que se imponen a la importación de ciertos productos y servicios. Lo que es seguro es que existen desequilibrios competitivos y que, al menos en el medio plazo seguirán existiendo. Es precisamente esta alteración artificial de la competencia la que es perjudicial para el comercio mundial, por algunas de las razones que este documento trata de analizar desde el punto de vista de su compensación o neutralización por medio de las herramientas que el regulador y coordinador del comercio internacional - la Organización Mundial del Comercio - pone a

disposición de los países cuando detectan prácticas distorsionantes del equilibrio competitivo mundial: las medidas antidumping. (Ross Denton Baker & Mckenzi, 1989) Para desarrollar estas ideas principales, el proyecto se estructura en siete secciones como sigue. En primer lugar, se establece el marco con una introducción seguida del marco teórico relacionado con lo que son las medidas antidumping y cuándo pueden ser aplicadas. La sección 3 explica que la Organización Mundial del Comercio es el principal organismo que rige las relaciones comerciales, seguida de una sección dedicada a la Unión Europea y a la construcción del mercado único considerando las medidas antidumping para garantizarlo.

A continuación, en la sección 5 se muestran las pruebas empíricas relacionadas con las prácticas anticompetitivas a través de un estudio de caso real que se concreta con un ejemplo local de Navarra. Este ejemplo mostrará la importancia de una aplicación adecuada de los reglamentos antidumping para la eliminación de las ventajas competitivas artificiales. Por último, se exponen algunas conclusiones teniendo en cuenta las posibles hipótesis planteadas como consecuencia de la COVID-19.

KEY WORDS

- Trade
- Protectionism
- WTO
- Dumping
- Competition

1. INTRODUCTION

Over the past two decades, a growing trend towards the internationalisation of business in general and of trade in particular has raised almost to the level of "dogma" among the vast majority of economists and entrepreneurs that such internationalisation, and very especially the elimination of any barriers to trade, was indispensable for the expansion of the economy and with it, the growth of world wealth (UNCTAD, 1981-2011).

However, in the relatively recent past, and particularly since Donald Trump took over the presidency of the United States, there has been a trend towards nationalism, "domestic shopping" in terms of production and trade, with barriers and tariffs being imposed on the import of certain products and services.

It is difficult to establish to what extent these decisions are the result of a real search for a competitive balance between nations, or, on the contrary, are merely a response to transitory political opportunism.

What is certain is that such competitive imbalances exist and that, at least in the medium term, they will continue to exist. What is really interesting is to analyse when these arise from an objective competitive advantage - for example the availability of cheap energy in the countries of the Arabian Peninsula, or from a mineral-rich subsoil in Australia - or, conversely, as a result of national economic policies that divert resources from one sector to another to make the latter a "champion" of competition that takes a dominant position in international markets.

It is precisely this artificial alteration of competitiveness that is harmful to world trade, for the reasons that will be indicated immediately and which this paper seeks to analyse from the point of view of its compensation or neutralisation by means of the tools that the regulator and coordinator of international trade - the World Trade Organisation - makes available to countries when these abusive and distorting practices of the global competitive balance are detected: *anti-dumping* measures. (Ross Denton Baker & Mckenzi, 1989)

For developing these main ideas, the project is structured in seven sections as follows. First, the framework is established with an introduction to the subject followed by the theoretical framework related to what antidumping measures are and when they can be applied. Section 3 explains the World Trade Organisation as the main body governing trade relations followed by a section devoted to the European Union and the construction of the single market

considering antidumping measures to guarantee it. Then, section 5 shows the empirical evidence related to anticompetitive practices through a real case study which is concreted with a local example from Navarra. This example will show the importance of an adequate application of antidumping regulations for the elimination of artificial competitive advantages. Finally, some conclusions are stated considering the potential scenarios that COVID-19 may arise.

2. THEORETICAL FRAMEWORK

2.1. Economic and social evolution and impact of trade and internationalisation

Trade was born practically with man himself, as a need to exchange goods available to a tribe or group of people that others lacked and vice versa. Man thus discovers, almost instinctively, the advantages of this exchange: the hunting tribes provide furs to shelter and meat to feed the fishing or gathering peoples, and these in turn, perhaps more sedentary in nature, provide either food supplements or utensils and tools to nomadic peoples, unable to stop to make them. This exchange is growing as the population increases and the first nations begin to establish themselves: the use of cedars from Lebanon by the Egyptians to embellish their palaces or the import of spices from Africa and the Orient to improve food is well known, and the "Silk Road" is perhaps the best example of this evolution. However, it is from the period of colonisation - the 16th and 17th centuries - that international trade begins to gain economic importance and with it the development of the great colonial empires. State trade monopolies developed, such as the "Casa de Contratación" created in 1503 as the sole agent for importing and exporting goods to the colonies, also carried out through a single port authorised for this purpose: the port of Seville. (Vanham, 2019)

The growth of trade developed more or less progressively until the appearance of a technological disruptive element: Watt's steam engine at the end of the 18th century but with its practical impact from the middle of the 19th century with its introduction in two key means of transport for trade and the transport of goods: the railway and the steamboat. England is the world's technological power and has managed to establish itself as a hegemonic power, based mainly on this. It forms a vast, centralist and monopolistic empire

but has sufficient vision to include in it a group of colonies that had gained independence at the end of the previous century-the United States of America-precisely as a result of an abusive centralist-monopolistic practice. The availability of suitable and state-of-the-art means of transport for the time - it has the largest war and commercial fleet in the world - and the best mechanical technology applicable to industrial production, make it the world's largest producer of manufactured goods as well as the world's largest "manager" of raw materials. This trend is continuing throughout the second half of the century, but additional world powers are emerging that do not wish to relegate this right to industry, access to raw materials, and, ultimately, access to wealth. This is the case of Germany, Japan, France and, to a lesser extent, Russia and the Austro-Hungarian and Ottoman empires. (Vanham, 2019).

The crux of the matter, the root of their disagreements and confrontation, lies precisely in the way they approach business and international trade. The way in which they negotiate between themselves is no more than a reflection of their way of managing the internal markets and administration: centralisation and monopolies, coupled with legislation that is consistent with them. This makes it incompatible to conduct commercial transactions on an equitable basis and ultimately leads to the first of the world's conflicts: the First World War. To tell the truth, it would be extremely simplistic to attribute a commercial or economic cause to the origin of conflicts of this magnitude, but there is no doubt that it would be naive not to assign these factors a decisive weight in their deflagration, a pattern that will no doubt be repeated in the case of the Second World War, the Cold War or the recent Sino-American dialectic clashes. (Vanham, 2019).

The United States emerged for the first time from the First World War as an emerging power, on the one hand because of its size, natural resources and growth "in the shadow" of the hitherto main hegemonic power, England, and on the other because of the fact that the devastation brought about by the Great War did not take place on its territory. This rapid growth was nonetheless curtailed by the Great Crisis of 1929, which was more than a hindrance to its economy; it was a pause before the definitive take-off that would take place after the SGM. (Kastelle, 2011)

Immediately after the MGS, a strong period of economic expansion began, bringing with it a sharp increase in international trade. Two main economic blocs emerged: a Western bloc, structured mainly through the Marshall Plan for European Reconstruction and the various economic agreements derived from it, and the COMECON or Council for Mutual Economic Assistance, which, led by the former USSR, encompasses all the countries in the communist orbit. Both blocs having been born for the improvement, cooperation and integration of their economies, the paradox is that global exchange between them is practically non-existent, thus generating an almost complete disconnection between both regions or alliances of the planet. The collapse of the Soviet Union, and with it the collapse of the system of aid to the COMECON countries, somehow precipitated the change of direction in the economic policies of the People's Republic of China, then led by Deng Xiaoping, the father of modern China. (Kastelle 2011).

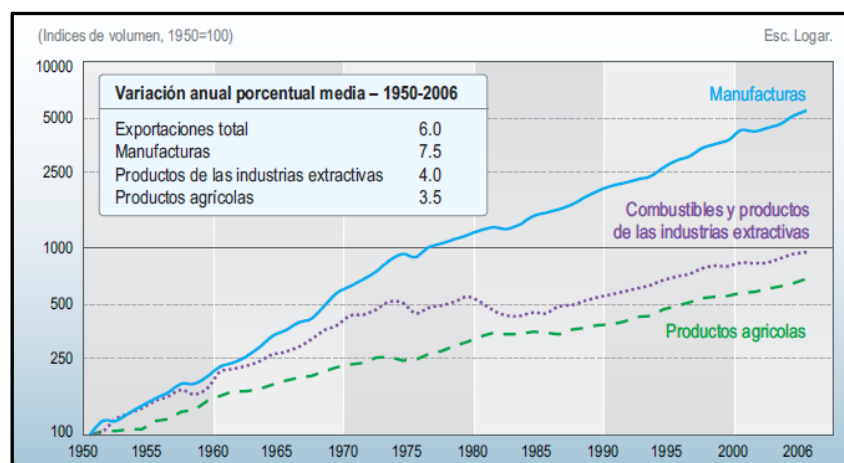


Figure 1: Evolution of international trade. Retrieved from: WTO, www.WTO.org

At the end of the 1980s, it launched the "863 for Science and Technology" programme, which focused the country's economic efforts on these objectives. Later, in 1992, it relaunched its economy definitively towards the market with the so-called "Reform and Opening Plan", which took place at the end of its economic inspection tour called the Southern Inspection No. 7 of 1992. The keys to this plan are mainly centred on China's conversion into the "factory of the world", for which it decrees the opening of its borders to the entry of Western capitals seeking to establish themselves in the country in search of cheap labour with which to produce the goods that these same Western companies based in China would subsequently re-export to their countries of origin and to their markets as a whole. . (Staiano, Maria Francesca)

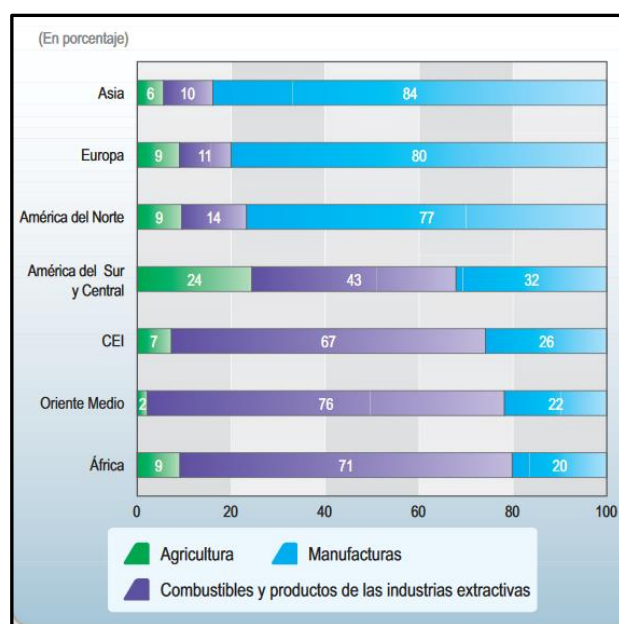


Figure 2: Sectoral structure of merchandise exports, by region (2018).

Retrieved from: WTO, www.WTO.org

With this policy, initiated in the early 80's and that is lasting nowadays, China is basically trying to:

- Attract capital for the establishment of productive centres that would allow the largest population in the world to be employed, until now mainly in agricultural work.
- To generate resources, through exports, to satisfy a growing demand for goods and services by its population.
- To gradually acquire the technological know-how that will enable it to develop its own companies in the future.
- In the long term, to conquer international markets for the industry that, based on the technological and economic contribution from abroad, could develop locally.

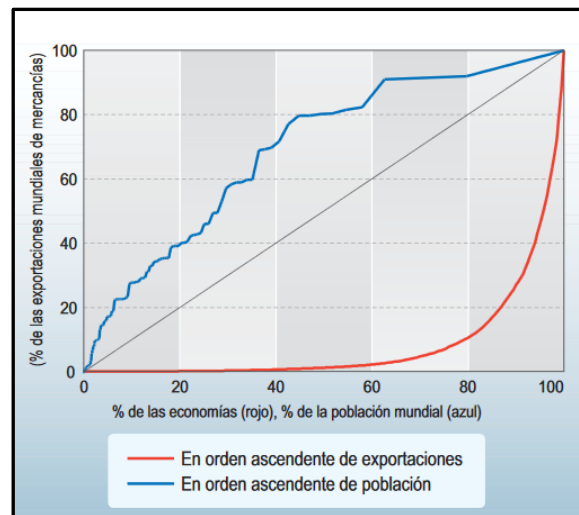


Figure 3: Ratio of exports to part of the population that produces them.

Retrieved from: WTO, www.WTO.org

2.2. The advantages of free trade

The mere sight of the quantitative evolution of the production capacity of global goods and services is a clear indicator of the benefit of the increase in international trade, as well as of the procurement of services beyond the borders of any country.

While it is true that this growth in production has not always been accompanied by a better distribution of these products, nor by a reduction in poverty in many areas of the world, there is no doubt that this equitable redistribution will be all the easier the greater the availability of these products.

Intensive trade facilitates the specialization of a region, a province, a country or even a continent, which automatically implies an economy of scale, an improvement in productivity, and ultimately a "leverage" effect on overall gross product, based on the intensification of such trade. (Hylland Eriksen, 2014).

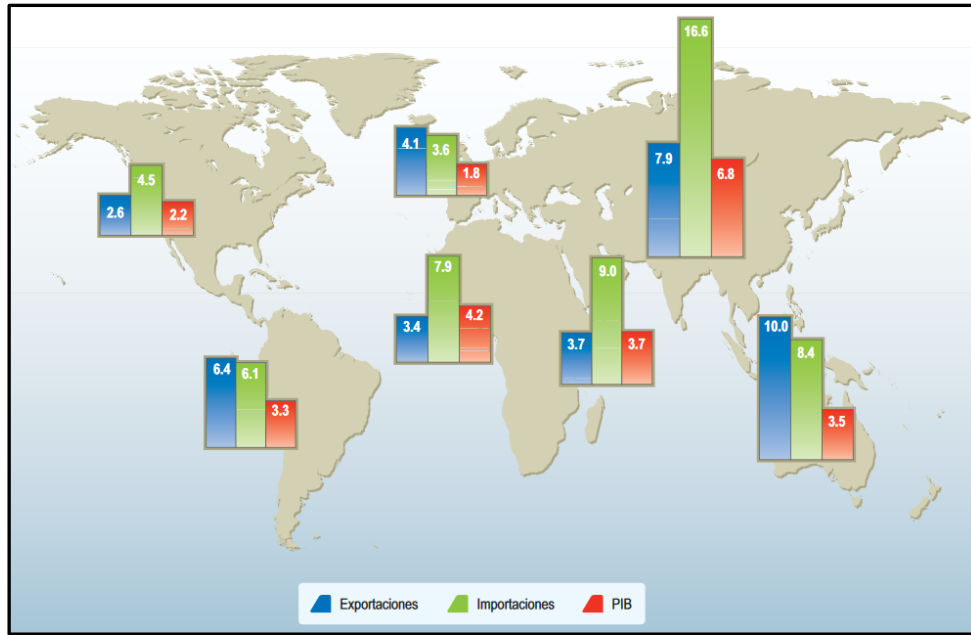


Figure 4: Percentage change in exports, imports and GDP.

Retrieved from: WTO, www.WTO.org

It is therefore important to mention some of the factors facilitating such growth:

- The progressive elimination of customs barriers, which are usually designed to protect local industry when it is not sufficiently competitive.
- The progressive elimination of technical barriers, particularly through the international unification of product approvals in the areas of health, food safety, etc.
- The establishment of commercial agreements that seek a competitive "fair play", in which mechanisms for compensating production costs are sought when at both ends of the market - offeror/acquirer - the regulations in certain key areas are not identical or comparable. For example, a country which does not respect certain environmental standards with a strong economic impact on production will always be more competitive than another country which does. In such cases, ways must be found to neutralise this artificial difference in competitiveness.
- Transport and telecommunications, whose cost, capacity and flexibility have improved exponentially over the last three decades.
- The progressive liberalisation of the financial markets, a key element in supporting industrial and commercial mobility.

- The gradual unification trend of world tastes, habits and customs that allows for increased economies of scale, as well as for a decrease in development costs involving different products for different markets.
- Despite the fact that we temporarily seem to be experiencing a special moment, the growing world political stability is a real fact that favours economic growth and trade. (Hylland Eriksen, 2014).

2.3. Recent developments in international trade

Based on the latest year for which statistics are available (2018), we can say that international trade is in a "healthy growth" phase, having grown by 3%, which is approximately in line with world GDP growth. (WTO, 2019)

In this regard, the WTO's annual report states the following:

"The value of trade in goods increased by 10% in 2018. The increase in exports was mainly due to high energy prices, and Asia was the region that contributed most to the growth of world imports. World exports of fuels and mining products, manufactured goods and agricultural products increased by 23 per cent, 8 per cent and 5 per cent respectively. In 2018, exports from developing economies amounted to US\$8,779 billion. 193 billion to the least developed countries. " (WTO, 2019)

While the growth in the exchange of services grew by a significant 8%. Thus, the same annual report tells us:

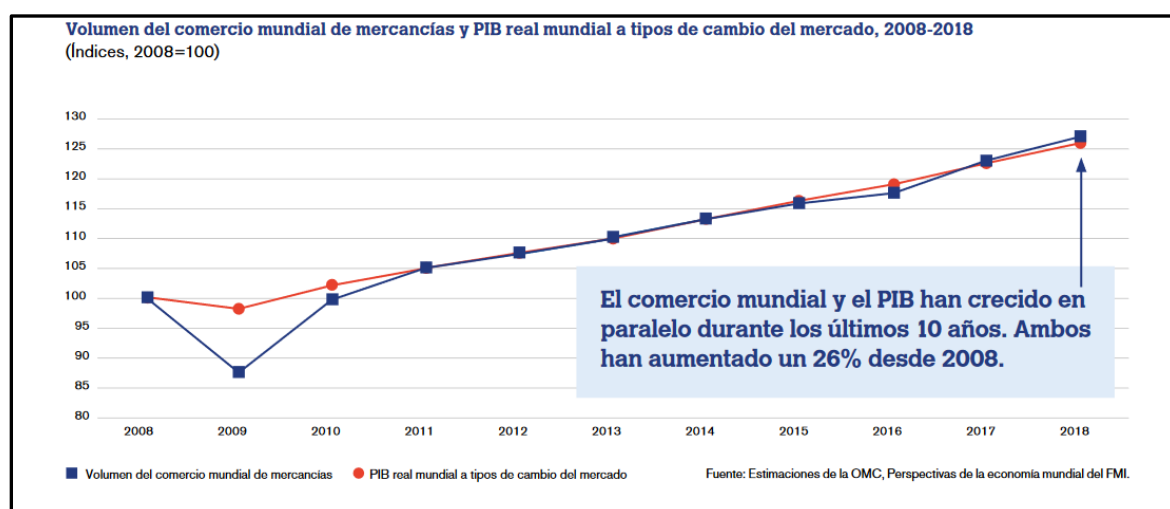


Figure 5: World merchandise trade volume and world GDP 2008-2018

Retrieved from: Annual Report 2019 WTO, www.wto.org

"In 2018, ICT exports increased the most (15%) in the services sectors, led by computer services. In 2018, the largest increase in commercial services exports was recorded in the Commonwealth of Independent States (former USSR) (12%), partly due to the hosting of the FIFA World Cup in Russia. Of the developing countries, China was the largest exporter of commercial services (in value terms); its exports grew by 17 per cent in 2018, but it remains the United States, the world's largest trader in commercial services in 2018".

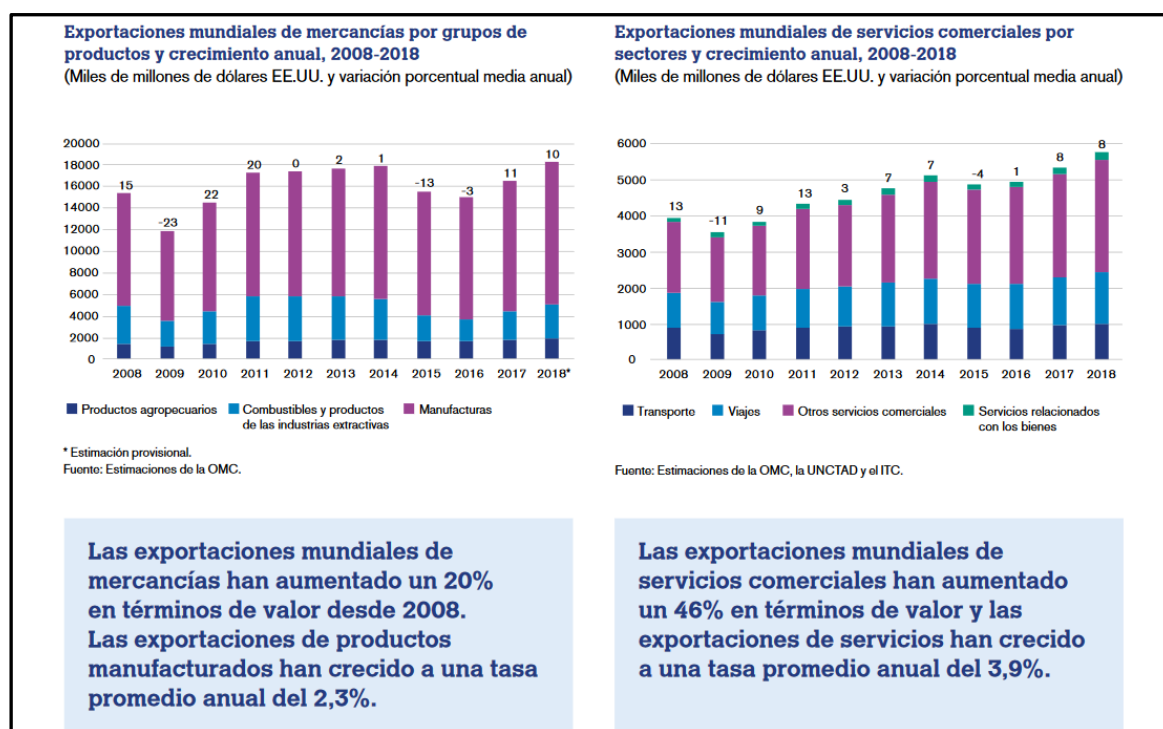


Figure 6: World merchandise and services exports by sector 2008-2018

Retrieved from: WTO, www.WTO.org

2.4. Tools for monitoring the evolution of international trade

Although the WTO has updated and detailed information on the evolution of international trade, any company that decides to launch itself into the international market needs to know in a simple and effective way the specific situation of its product or family of products.

One effective tool provided is the "Trade Map", developed by the International Trade Center. The ITC was established in 1964 and is a joint body of the World Trade Organization and the United Nations, created to support the internationalization of enterprises,

particularly for developing countries. There we can find, among other things, monthly and annual trade statistics for products 2001-2020 by product group (imports and exports) or by country (imports and exports) as statistics on trade in services 2000-2018 by services and by countries.

From its website (<https://www.intracen.org/itc/analisis-mercados/estadisticas-del-comercio/>) we see that *"Trade Map is an interactive web application that presents trade statistics and market access information for international business development. By transforming the large volume of primary trade data into an accessible, user-friendly, web-based one, Trade Map provides indicators of export performance, international demand, alternative markets and the role of competitors in trade. Trade Map covers annual trade data for 220 countries and territories and all 5,300 products in the Harmonised System. Trade data are also available at the tariff line level on a monthly and quarterly basis for about 110 countries, and on an annual basis for an additional 50 countries. Users can register here to access Trade Map for free"*.

"A limited version of Trade Map is accessible without the need to register for trade flows up to the 4-digit product classification system (Harmonised System), for monthly trade flows to the 2-digit HS level, and for trade flows in services:".

3. THE WORLD TRADE ORGANISATION (WTO)

3.1. What is the World Trade Organisation (WTO)?

In the words of the WTO itself, *"The World Trade Organization (WTO) is the only international organization that deals with the global rules governing trade between countries. Its main function is to ensure that trade flows are as smooth, predictable and free as possible."* (WTO, corporate website)

On the basis of the need and opportunity for its creation and operation, the WTO states that: *"The result is certainty. Consumers and producers will have the certainty of a secure supply and a greater variety of finished products, components, raw materials and services used by them, while producers and exporters will have the certainty of foreign markets that remain open to them. Another consequence is that the global economic environment becomes more prosperous, calm and reliable. In the WTO, virtually all decisions are taken by consensus between all member countries and then ratified by the respective parliaments. Trade frictions are channelled through the WTO's dispute settlement mechanism, which focuses on the*

interpretation of agreements and commitments and aims to ensure that individual countries' trade policies are in line with these. This reduces the risk that disputes will lead to political or military conflict. By reducing barriers to trade, the WTO system also helps to remove other types of barriers between people and between nations".

3.2. Birth and evolution of the WTO

The World Trade Organisation was set up in 1995, as an evolution of the General Agreement on Tariffs and Trade (GATT), which was created in 1946 at the end of the GMS. The aim was to create a solid system of trade based on rules common to all participants, based on fair trade. (WTO, corporate website)

The birth of the GATT took place after lengthy trade negotiations, basically between the US and its post-war allies -Europe, Canada, Australia and Japan- which subsequently extended to its entire area of influence in the first instance, and to the world as a whole later.

The first negotiations were aimed at establishing tariff limitations and reductions that would increase the fluidity of trade, to be later extended to other areas such as anti-dumping measures, common standards and approvals, etc.

The last round of GATT negotiations, which took place in Uruguay between 1986 and 1994, led to the creation of the WTO, which served as a "accelerator" for measures to improve trade.

At the beginning of 1997 work was carried out on telecommunications services, and in the same year agreements were concluded on duty-free access to materials and information technology products, and on banking, insurance, financial and derivative services.

Already in 2000, a new round on agriculture was launched in Qatar and the "Doha Development Agenda" was created to address non-agricultural tariffs and environmental issues.

Finally, agreements have also been discussed and developed on anti-dumping measures and the treatment of sectoral subsidies, intellectual property, etc.

3.3. Structure

A total of 160 member countries make up the WTO, with a trade volume of 95% of the total.

The decision-making mechanism is the achievement of broad consensus, mainly by the major economies of the so-called G20. When these consensus are not feasible, decisions are made by vote and majorities, which are taken at the Ministerial Conference, which meets every two years. Meanwhile, the General Council, consisting of ambassadors and heads of delegation in Geneva, meets quarterly to adjust and facilitate the achievement of such consensus. Another function of the General Council is to serve as the Trade Policy Review Body and the Dispute Settlement Body.

Already, below this and to deal with specific matters, the WTO has:

- The Council for Trade in Goods
- The Council for Trade in Services
- The Council for Intellectual Property Rights Aspects
- Different specific Committees and Working Groups that are being created ad-hoc and whose survival is related to the formulation and approval of proposals aimed at solving the aspects entrusted to them.

4. THE EUROPEAN UNION AND THE CONSTRUCTION OF THE SINGLE MARKET: dumping and anti-dumping measures

General typologies of dumping and their comparison with the Business-case			
Generic denomination	Generic meaning	Specific alternatives	Business Case Alloy-wheels
Conventional Dumping	Selling below foreign market prices		All three situations are present. Sales prices in China are higher than export prices even before export subsidies or incentives
	Selling at prices that foreign competitors cannot compete with		Not applicable. The exporter, with the internal subsidies, obtains benefits
	Selling abroad cheaper than in the domestic market		This is an important facet of the Sino-American trade war, but in the analysis of this case, it is not officially applicable
	Selling at non-remunerative prices for the exporter		Not applicable
Exchange Dumping	Sale at unremunerated prices for the exporter	Granting longer credit terms to foreigners	Not applicable
Concealed Dumping (hidden dumping)	It consists of charging the same prices on the domestic market and abroad (there is apparently no dumping), but discriminating in other respects, for example:	Do not charge packaging or transport costs when exporting	The transports are carried out exclusively by Chinese transporters, who have been in dispute over dumping for decades
		Exporting better quality products at the same price as in the domestic market	It is applicable, using even lower prices
		Export goods that differ in shape, style or material from those sold in the domestic market. This type of dumping may not be deliberate, and is due solely to the different legislation affecting the product	Not applicable
Dumping por subsidios a la exportación (Dumping Oficial)	Export subsidies are official dumping. The GATT prohibits this practice in respect of manufactured goods		Aluminium rims have an export subsidy from China
Social Dumping	Social dumping is understood as the achievement of low prices by some producers through the promotion of undemanding labour legislation. Western producers criticise this situation, arguing that the demands of the welfare economy prevent them from achieving such low prices		Actual situation but not covered by anti-dumping penalties
Ecologic dumping	The situation is similar to the previous one. In this case, those favoured would be producers in countries with less stringent environmental legislation. Normally poor countries		Actual situation but not covered by anti-dumping penalties
Temporary stocks management dumping	Sporadic	Unintentional overstocking	Not verified
	Short term	Maintain market presence because of its potential	Possible but not demonstrable
		Eliminating competition	
		Preventing the emergence of competitors	Not applicable
	Long term	Retaliation for reciprocal dumping	
		Maintain production capacity without lowering domestic prices	
		Economies of scale without lowering domestic prices to enlarge production plants	Actual situation but not covered by anti-dumping penalties

"The Single Market is a cornerstone of European integration, since the Treaty of Rome already made the creation of a common market the main objective to be achieved. (EU Economy, Waiter and Tamarit, Ed. Thomson Reuters)

This integration into a single market implies the elimination of all customs, commercial, administrative, technical and technological barriers, or of any other kind, which in one way or another hinder the free exchange of goods in the environment of the countries that have signed the agreement, and at the same time it is a precursor to the subsequent Treaty on the Free Movement of Goods and Services, already signed within the European Union.

Key in this respect is Article 34 of the Treaty establishing the European Union, which precisely invokes the prohibition of Non-Tariff Barriers (NTBs) often intended to protect its internal market in a quasi-"innocent" way once the Customs Union has been adopted.

Logically, the achievement of this single market has required an arduous task, as it has required the harmonisation of many existing and different laws of the various countries that make it up, but it also creates a number of laws designed to fill the gaps and solutions that such a great task generates.

With all this, it is important to specify that *"the EU is not an end in itself, but rather its entire legislative body is at the service of a series of objectives of economic dynamism and increased well-being of citizens and companies, through various micro- and macro-economic mechanisms that are triggered by the effective integration of markets"* (EU Economy, Camarero and Tamarit, Ed. Thomson Reuters), proof of which is that statistics clearly show the correlation between the economic growth of the member countries of the Customs Union and the degree of integration of their economies and the increase in the exchange of goods, obviously encouraged precisely by this elimination of customs and tariff barriers.

Cuadro 1. Crecimiento medio anual del PIB per cápita por periodos de 10 años, antes y después de la adhesión a la UE.					
1ª ampliación	1962-1972	1973-1983	4ª ampliación	1984-1994	1995-2005
Dinamarca, Irlanda, Reino Unido	3.1	2.1	Austria, Finlandia, Suecia	1.4	2.9
EU15+Noruega, Suiza, Islandia	4.2	2.1	EU15+Noruega, Suiza, Islandia	2.1	2.5
Diferencia en el crecimiento	-1.1	0.0	Diferencia en el crecimiento	-0.7	0.3
2ª ampliación	1970-1980	1981-1991	5ª ampliación	1994-2004	2005-2015
Grecia	4.2	1.2	Chequia, Hungría, Polonia, Rep. Bálticas	4.9	3.1
EU15+Noruega, Suiza, Islandia	3.0	2.1	EU15+Noruega, Suiza, Islandia	2.6	0.5
Diferencia en el crecimiento	1.1	-0.9	Diferencia en el crecimiento	2.3	2.6
3ª ampliación	1975-1985	1986-1996	6ª ampliación	1996-2006	2007-2017
España, Portugal	1.6	3.2	Bulgaria, Rumanía	3.4	3.0
EU15+Noruega, Suiza, Islandia	2.0	2.1	EU15+Noruega, Suiza, Islandia	2.6	0.4
Diferencia en el crecimiento	-0.4	1.1	Diferencia en el crecimiento	0.8	2.6

Nota: El crecimiento medio anual se ha calculado como la media de las tasas de crecimiento anuales del PIB per cápita a precios constantes de 2017 de los países del grupo. Fuente: Total Economy Database.

Figure 8: Average annual GDP per capita growth 10 years before and after the incorporation to the EU. Retrieved from: Total Economy Database.

4.1. Illegal practices in international trade

It can be said that fair-play between partners and the prevention of illegal trade practices have always been central to the constructive spirit of a united Europe, since *"competition policy in the European Union has been in place from the very beginning of its formation, as the six states that signed the Treaty of Rome considered it necessary to articulate some basic principles that would guarantee balanced trade and fair competition, thus facilitating the establishment of an internal market. The basic elements of competition policy have not changed substantially since then. The current Treaty on the Functioning of the European Union (TFEU) retains the main articles on this subject, with a change in numbering. Clearly, substantial progress has been made in terms of the instruments available"*. (EU Economy, Waiter and Tamarit, Ed. Thomson Reuters)

This concern goes so far that Article 3 of the Treaty on the Functioning of the European Union itself states that

*"The Union shall have **exclusive competence in the following areas:***

- *The Customs Union*
- *The establishment of the competition rules necessary for the functioning of the internal market*
- *The monetary policy of Member States whose currency is the euro*
- *Conservation of marine biological resources under the common fisheries policy*
- *The common commercial policy"*.

This purpose of ensuring the proper application of international standards stems from the misuse - or complete omission - of these standards by some companies and governments.

The main practices that are contrary to good trade are the following: (*Helmut Corvo*)

- *Dumping or price discrimination* (on which we will elaborate below)
- *Subsidies or grants*, for example, of energy produced by public enterprises or raw materials produced by state enterprises when the products are intended for export
- *Controlled foreign exchange rate depending on its application*, such as applying one rate to foreign exchange from exports and another much higher rate to foreign exchange for imports.
- *Protectionist policies* such as the application of direct fees to imported products so that they lose competitiveness against locally produced ones.
- *Export tax rebates* as an indirect measure of exchange rate change for the exporter, improving its international competitiveness.
- *Theft of intellectual property and industrial espionage*
- *Technical and sanitary regulations, etc.*, artificially restrictive to the import of goods from another country.

As can be seen, there are many and varied illegitimate practices. In our case, we will deal with the first of these with particular attention: *dumping* and some of the remedial measures applicable.

4.2. Dumping or price discrimination in international trade

There are many definitions of the concept of dumping, but basically, they could be combined into two, representing the two sides of the same coin. On the one hand, we would understand dumping in the *broad sense to mean the* sale of a product below what could be considered "fair" for the market in which it is produced, that is to say, at a price below its overall production costs. On the other hand, we would have what is known as *international dumping*, which implies the sale of a product below what is usually done on the local market, when it is exported to other countries, below what was previously defined as a "fair price" or cost coverage.

There are various forms of dumping which are consistent with the objective of dumping (EAE Business School, 2018):

- *Predatory dumping*: this practice involves positioning oneself in a weak market, for whatever reason, at prices well below those existing locally in order to eliminate competition and local production and then take control of the market in a monopolistic manner and raise prices at a high profit.
- *Cyclical dumping*: this usually occurs when a country enters into a recession and, in order to place its production, exports the goods that are not feasible to sell locally at prices below the local market in order to minimise losses. Its main consequence is the destruction of the market to which it is exported, with the potential for subsequent shortages, since when the exporter comes out of the recession and has no interest in remaining in this market at low prices, it usually withdraws and there is either a major shortfall or a sharp rise in prices.
- *Seasonal Dumping*: is somewhat similar to the above in that this action consists in selling seasonal surpluses on third markets at a lower price on the market of origin in order to eliminate stocks (e.g. swimwear, winter shoes, etc.).
- *Persistent dumping*: this is the most dangerous form of dumping. It could be defined as *"the continuous tendency of a national monopolist to maximise total profits by selling its products at a higher price in the domestic market than internationally, in order to be competitive in those foreign markets. This type of dumping is carried out because monopolies use price as a tool of discrimination between markets. But for this international price discrimination to take place, two conditions must be met: foreign and domestic markets must be separate and the elasticity of demand for the product must be different in both. Thus, the product can be sold at a lower price where the demand elasticity is high and at a higher price where the demand elasticity is low."*

The most important thing to note with regard to dumping is that ***it is not the competitiveness of the*** manufacturer that makes it successful in a market, ***but the distortions to competition that*** extra-operational measures cause in the market, and moreover its main consequence is that its action makes it possible to impoverish or even destroy the industrial fabric of the country or sector that is the object of these illicit practices.

An additional perverse effect of dumping is that it generates a vicious circle for the market in which the company that practices it operates, which, in its eyes, becomes a virtuous circle. (Rodrik, 2018). This is understood as follows:

- A company that practices dumping produces and sells a greater quantity of product than if it did not, with the result that the unit cost of its fixed costs is diluted and the variable cost of its production tends to be optimised by economies of scale, i.e. dumping leads to a real improvement in productivity, obtained illegitimately.
- By increasing their productivity, while entering the market with dumping, their competitive position is improved exponentially, so that their market conquest is accelerated and with it the destruction of competition.
- By increasing its control of the market, it becomes the dominant position in the market, thereby significantly increasing its defence position vis-à-vis third parties.
- By becoming a dominant force, it discourages investment by third parties, as barriers to entry increase significantly. This eventually leads to a quasi- or full monopoly effect or practice, which will eventually result in disinvestment and local unemployment and, in parallel, higher consumer prices.
- Finally, deindustrialisation and the increase in consumer prices of an imported product increase the transfer of wealth abroad and, with it, the impoverishment of the dumped country.

4.3. Corrective measures for illegitimate commercial practices

Planned compensation mechanisms and their application in the business case			
European Union	Generic Reference	Specific Reference	Business Case Alloy-wheels
Competent authority	Anti-dumping unit of the European Commission as responsible for the investigation of its existence and the damage caused		It intervenes directly by sending inspectors to both China and European plants for on-site comparison
Purpose of the intervention	It is in the public interest to pursue the Community interest	Producers interest Consumers interest	European tyre producers grouped in the EUWA Original vehicle manufacturers - OEM's
Criteria for the intervention	Lesser Duty Rule	The amount of the anti-dumping duty should be the minimum necessary to remove the injury	On average, ad valorem measures of 23%
Calculation of the antidumping margin	Highest prices of similar exported goods to third countries		It is not verified. Subsidies and dumping are widespread for all exports of this product
	Approach based on cost of production and 'reasonable' profit margin		The EU sets the target cost in China on the basis of European technical costs (which are then translated into economic costs by applying Chinese local unit rates)
Determination of the object of damage	Damage to a sector		Sector enters into strong generalised losses
	Damage threat due to imports		The closure of several companies and production units has already been verified. Increase in unemployment in the sector
	Delay in setting up a sector		Not applicable. Sector with strong local implantation preexisting
	Price Undercutting	Comparison of weighted average resale prices of foreign and European products	Not applicable. The product is exported directly by the final consumer, in this case the OEM's
Comparison method	Price Underselling	Used when European prices cannot be taken as a reference. A target price based on acceptable costs and reasonable profits is constructed	Not applicable. Local industry exists as a reference for technical costs (which are later translated into economic costs by applying Chinese local unit rates)

Because of its historical profile as a liberal and open economy, it was precisely in the United States that the first antitrust laws were born. The Sherman Act, proposed by the Ohio senator of the same name, the "Sherman Antitrust Act", dated 02-07-1890 is the first federal law aimed at minimizing and controlling monopolies. It declared trusts illegal and laid the foundation for the development of all future secondary legislation. Published on July 2, 1890, it was the first measure of the US federal government to limit monopolies. The act declared the trusts illegal, as they were considered to be restrictive of international trade.

Its original text precises: *"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal."*

The Clayton Act of 1914, focused on the control of mergers between companies, reinforced it, by preventing through this mechanism the appearance of monopolies that the Sherman Act intended to eliminate. It is also in 1914 when the "Federal Trade Commission" is created, an independent federal agency that controls the commercial practices inside and outside the United States, assuring the application of the antitrust laws.

European antitrust legislation comes much later, with the first precedents being those of the United Kingdom in 1919 and Germany in 1923. Its application was initially much more superficial, as it was believed at the time that *"merger or cooperation between companies was a necessary step to achieve the emergence of "national champions", i.e. large companies that could face competition from companies in other countries."* (Waiter and Tamarit, (n.d.))

Effective awareness of the need to establish criteria and legislation relating to the defence of competition in Europe arose at the beginning of the 1950s with the birth of the ECSC (European Coal and Steel Community) which included in its founding agreement - the Treaty of Paris - the removal of any trade barriers, in the areas covered by the agreement. These agreements were subsequently incorporated into Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), which prohibit *"concerted practices between undertakings which have as their object the prevention, distortion or restriction of competition and the abuse of a dominant position in the market"*.

More specifically, the TFEU pursues two main types of anti-competitive practices:

1 - *Unlawful agreements and concerted practices*, which are protected by **Article 101** and take the form of

- Setting prices outside their fair value, either directly or indirectly.
- Limit or control production, technical development or investment in an artificial or non-market-based manner.
- To distribute or establish "quotas" in areas of influence, whether at the level of the market, suppliers, etc., acting in a monopolistic manner in each of these areas of influence.

2 - *Abuse of dominant position*. In particular, **Article 102 of the TFEU** states that *"any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market insofar as it may affect trade between Member States. "*

4.4. Concept and justification

"If a company exports a product at a lower price than it normally applies on its own market, it is said to be dumping. Is this unfair competition? Opinions differ, but many governments take action against dumping in order to protect their domestic industries. The WTO Agreement does not make any judgement. It focuses on how governments may or may not respond to dumping; it disciplines anti-dumping measures and is often referred to as the "Anti-Dumping Agreement". (WTO, (n.d.))

Regardless of the legal definitions, for the WTO to recognise the existence of an action of dumping, and therefore authorise an anti dumping measure, it must be verified that

- Real and significant damage is caused to the local industry in the dumped country.
- The government or the group of companies involved must prove the existence of dumping.
- There must be a clear and unambiguous way of calculating the extent of that damage.
- It must be repetitive and persistent.
- It must have effects not only in the short term, but must also show that its persistence in the future would aggravate the present damage.

Interestingly, the Gatt agreement, in its Article 6, allows countries that are victims of dumping by a third party to apply *anti-competitive* measures. These measures normally consist of applying import duties which compensate or approximate the import price to the "normal value" of the product in its country of origin plus an additional value to compensate for the cost of transporting it from the country of manufacture to its country of destination.

It is important to appreciate that the *comparison is NOT made against the price of the good in the country of destination, but against the price in its country of origin*. The reason for this is precisely the application of the concept of dumping itself, which compares the export price with that of the "normal value" at origin in order to find out whether or not it is being exported below that value.

4.5. The "normal" value of a product

Since this is a key element of the system, it is convenient to define how it is calculated. There are basically three ways (WTO, (n.d.)):

- The first and fundamental is to take as a reference the price of the good in the exporting country. When this is not possible, two other methods are used.
- Calculate/apply the price applied by the same exporter to other export markets or destinations, a tool less commonly used since it entails the risk of taking as a reference or "non-normal" value when dumping is widespread.
- Calculate the price on the basis of the actual cost calculation plus an additional value covering a minimally logical profit margin at market values.

4.6. The calculation of "damage"

Determining the "normal value" of a product and comparing it with the import price is only a first step in determining the existence of dumping, and more specifically, whether or not there is a right to take countervailing measures.

The mere existence of a differential in this respect only opens the door to further research.

The usual practice is for an inspection body to launch an investigation to assess the various aspects relating to the industrial sector: target market, suppliers, transport, unit costs,

technological availability, investment, and so on, which will give a clear picture of the situation as a whole.

The damage caused is not directly the difference in costs, but is deducted from the corrective factors determined by that investigation. (WTO, (n.d.)) Examples of elements that may modify this factor:

- Technological level used / Obsolescence of productive means.
- Staff qualifications
- International competition from third countries
- Import prices from these third countries if no anti-competitive practices are taking place there
- Local means of production
- Availability of local labour/technicians/technology
- Actual volume, as a percentage, of penetration of the imported good alleged to be dumping
- Long-term impacts on industry and local development

It can be seen that this is a very complex formulation but what it really seeks is that a corrective measure produces precisely this, a correction of an incorrect practice and not the introduction of a new incorrectness in the opposite direction to the first.

Moreover, the application of anti-dumping measures must be applied when the damage is significant. In this respect, the WTO states that: *"Anti-dumping investigations should be terminated immediately in cases where the authorities determine that the margin of dumping is negligible (defined as less than 2 percent of the export price of the product). Other conditions are also laid down. For example, investigations must also be terminated if the volume of dumped imports is negligible (i.e. if the volume from one country is less than 3 per cent of total imports of that product, although investigations may continue if several countries supplying less than 3 per cent of imports individually account together for 7 per cent or more of total imports).* (WTO, (n.d.))

4.7. The adoption of anti-dumping measures in the European Union

The procedure for initiating an anti-dumping proceeding in the European Union is as follows (extracted from the European Union Trade Helpdesk - <https://trade.ec.europa.eu/tradehelp/es/antidumping>):

Following receipt of a complaint by EU producers of the product concerned, the Commission publishes a notice in the Official Journal of the EU initiating an anti-dumping proceeding. The maximum period for an investigation in these proceedings is 15 months. The detailed results are published in the Official Journal, for example in the form of a regulation imposing anti-dumping duties or terminating the procedure without imposing duties.

The EU's basic anti-dumping regulation complies with the EU's international obligations, in particular under the WTO Anti-Dumping Agreement.

An anti-dumping investigation may be initiated in response to a complaint lodged by EU manufacturers concerned by dumped imports or at the request of an EU country. EU producers who are considering lodging an anti-dumping complaint should contact the European Commission.

The investigation should prove that:

- Dumping by exporting producers in the country or countries concerned
- The affected EU industry has been harmed
- There is a causal link between dumping and injury
- The imposition of measures is not contrary to the interest of the EU.

If the investigation shows that the four conditions set out above have been met, anti-dumping measures may be imposed on imports of the product concerned.

These measures usually take the form of

- Ad valorem
- Specific rights
- Price commitments

The duties are paid by the importer in the EU and collected by the national customs authorities of the EU countries concerned.

Exporting producers can offer 'undertakings' (such as agreements to sell at a minimum price). If their offer is not accepted, no anti-dumping duties will be levied on imports. The Commission is not obliged to accept the offer of an undertaking.

A duty may be imposed in order to eliminate the effects of dumping on imports of a particular product. An assessment is also made of the level of duty necessary to remove the injurious effects of the dumping. The measures to be imposed will depend on the level of dumping or injury, whichever is the **lower**.

4.8. Duration of measures and revisions

Measures are normally imposed for a period of 5 years and may be subject to review if, for example (European Commission):

- The circumstances of the exporters have changed
- Importers request a full or partial refund of duties paid
- New exporting producers request an accelerated review.

The measures will expire after 5 years unless an expiry review is initiated.

The Commission monitors the measures to ensure that they are effective and respected by exporters and importers.

All these elements are set out in detail in "*COUNCIL REGULATION (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community*."

In its Article 1, it deals with the Principles of Application of the Regulations:

An anti-dumping duty may be applied to any dumped product whose release for free circulation in the Community causes injury.

2. A product shall be considered as being dumped if its export price to the Community is less than the comparable price for the like product in the country of export, in the ordinary course of trade.

3. The country of export shall normally be the country of origin. However, it may be an intermediate country except where, for example, the products simply transit through the country or are not produced there or where there is no comparable price for the products in that country.

4. For the purpose of this Regulation, the term 'like product' shall be interpreted to mean a product which is identical, that is to say, alike in all respects, to the product under consideration, or in the absence of such a product, another product which although not alike in all respects, has characteristics closely resembling those of the product under consideration.

In its Article 2, it deals with the *determination of the existence of dumping*

In its Article 3 on the *determination of injury*

Thus, throughout its 24 articles, it successively deals with each and every aspect related to an anti-dumping proceeding, from its initiation to its closure and definition of measures, going through the investigation process, the determination of fair value, etc.

Below is a schematic diagram of a European Commission flow chart showing the entire process:

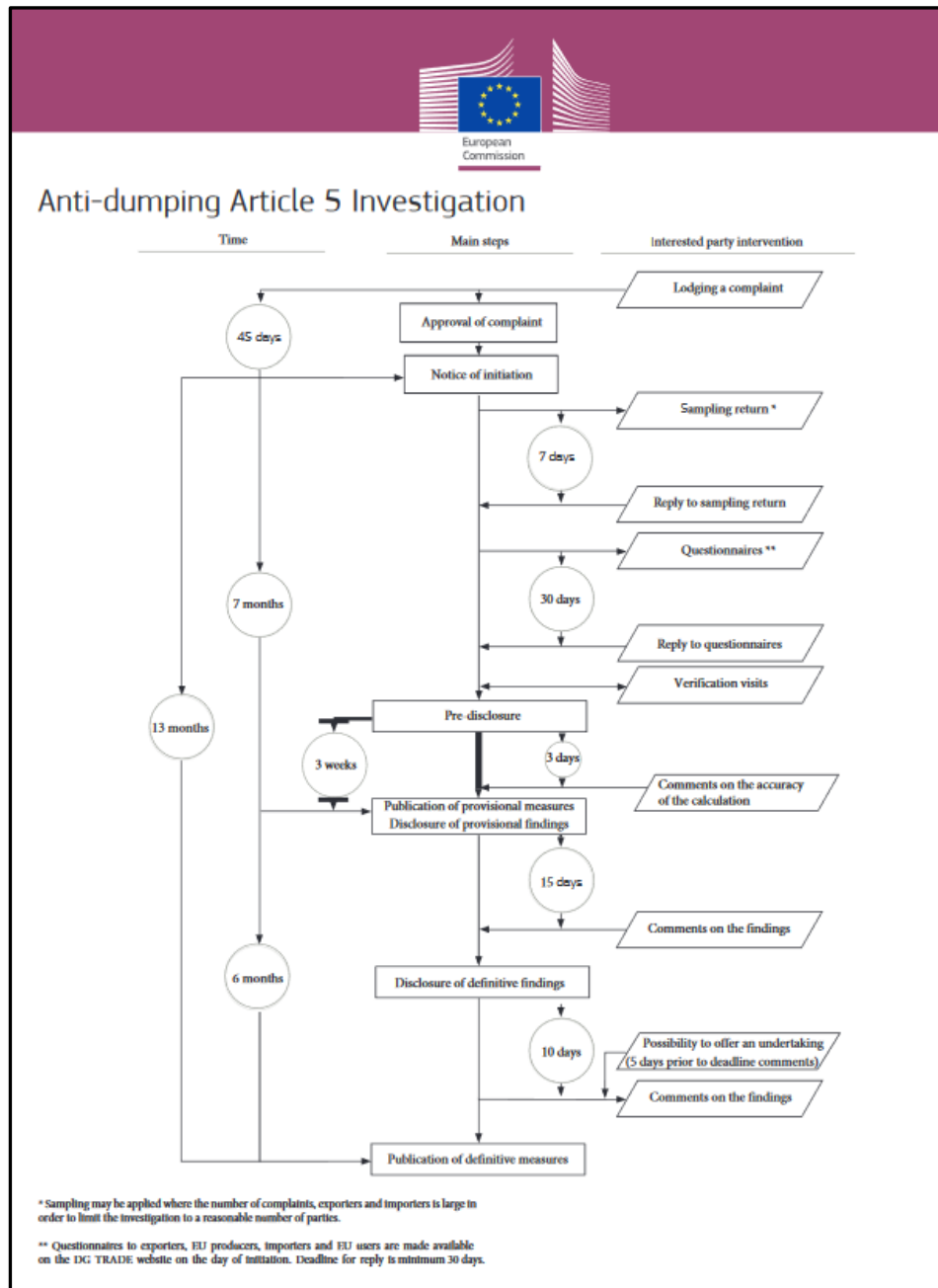


Figure 9: *Antidumping Art. 5 Investigation* Retrieved from https://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151020.pdf

4.9. Other regulatory aspects

In addition to the general elements mentioned above, there are a number of additional, less generic, nuances that must also be taken into account.

These remarkable elements are:

- *The adoption of undertakings by the exporter:* when an investigation process is under way, often depending on the characteristics of the dumping found, the exporter is offered the possibility of voluntarily remedying the practice in question. The exporter can propose and give the investigating committee a series of undertakings designed to neutralise or correct the practice. If, in view of this, it is accepted as appropriate and it is accepted by the Commission, the procedure will be terminated. A period of surveillance will be maintained on the matter in question and no penalties will be applied.
- Generally, when an anti-dumping measure is adopted, *it is not applied retroactively* except in very exceptional cases.
- Where the initial provisional anti-dumping measure is higher than the definitive one, *the refund of the difference to the importer is limited to equally exceptional and limited cases*. For such a refund to take place, there must be a difference in amounts which greatly exceeds the value of the damage caused by the import of the good before the introduction of the anti-dumping measure.
- *The investigation may be reopened within two years from the time the definitive anti-dumping measures are imposed.* The purpose of such reopening is to review the situation in the event of further dumping by the exporting country which would undermine the protective measures adopted by the EU.
- In order to guarantee the quality and objectivity of its decisions, the *Commission has an advisory and monitoring committee (Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers)*.

- The commission has the *power to conduct inspections in the factories and countries of origin of* the property under investigation. A refusal by the producer to accept such an inspection will directly imply acceptance of the alleged unlawful practice, on the basis of which it may take the corrective measures it deems appropriate on its own initiative.
- *A finding of non-cooperation* may also be made where the firm or sector under investigation does not make available to the Commission all the information required, whatever its nature. As in the previous case, this will directly imply acceptance of the alleged unlawful practice on the basis of which it may take the corrective measures it deems appropriate ex officio.

5. EMPIRICAL EVIDENCE: A real case study.

5.1. Review and renewal process of anti-dumping measures on imports into the EU of aluminium alloy wheels from China

In the previous chapters we have briefly described what it means to export a product to a third country by dumping, the different characteristics of this illegitimate practice and what the main consequences are.

The investigation process carried out by the European Union to verify whether a third country is exporting its products to Europe by dumping, the different methods of calculating "damage" and the penalties to be introduced to neutralise it, as well as the ***five-year period*** during which these measures are in force once approved, have been described.

The fact that the measures ***have a defined and finite time frame is intended to*** protect local industry from bad practices, but at the same time, and mainly, as the real purpose of the WTO is to favour free trade, to set a time horizon that will serve as an incentive for the exporting country to eliminate this bad practice, restoring fair-play.

However, it is not uncommon for the exporter to seek to resume such illegitimate practices after this period, with the dual purpose of achieving its original commercial objectives, but also to make up for some of the "lost" time. The consequence in these cases is often a

deepening of the previous dumping and a consequent reaction by the actors in the target market.

Precisely because this is a much less explored area, we will now summarise *a practical and real case* not of the application of an anti-dumping measure, but of *the new analysis and renewal*, after five years of application, of a penalty for dumping practices in our market, whose main victim in our country is a Navarrese company: the import of aluminium alloy wheels from China.

It is important to highlight that for this Final Degree Project it was decided to include this practical case, the result of field research, because it not only allowed to see in a real and effective way the ins and outs of a procedure of this type, with its corresponding pedagogical added value, but also, because it affects a relevant local company, the case becomes especially interesting.

5.2. The original case

On 13 August 2009, the European Commission announced the initiation of an anti-dumping investigation on imports of aluminium car wheels, with or without tyres, from China.

The complaint was lodged on 30 June 2009 by the European Wheel Manufacturers Association (EUWA) on behalf of more than 50% of the producers responsible for more than 95% of the production established in the territory of the European Union, thus comfortably meeting the minimum necessary representativeness rate. (25% of production)

A total of 36 companies or groups of related companies ('groups') in the PRC came forward and provided the requested information within the given deadline. These 36 companies or groups produced and/or exported the product concerned to the European Union market during the investigation period and expressed a wish to be included in the sample. They were regarded as co- operating companies and were considered for inclusion in the sample. The level of cooperation from the PRC, i.e. the percentage of exports to the EU by the Chinese cooperating companies as compared to all Chinese exports to the EU, was more than 90 %.

After consulting the parties concerned in accordance with Article 17(2) of the basic Regulation, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which can reasonably be investigated within the time available and also taking into account the geographical spread of the co- operating companies or groups. The sample selected consists of four (groups of)

companies, representing 47 % of the exports to the EU of the 36 co-operating companies or groups, and around 43 % of the total exports to the EU from the PRC. The authorities of the PRC and the Chinese Chamber of Commerce agreed on the choice of sample made by the Commission but requested the inclusion of at least two additional (groups of) companies in the sample. However, given the fact that the sample initially selected consists of 20 companies belonging to 4 groups, it was decided that no more companies or groups could be added since this would not permit completion of investigations within the statutory time limits.

Five exporting producers in the PRC, which were not included in the sample, requested individual examination and provided the relevant information within the given deadline, with a view to the application of Articles 9(6) and 17(3) of the basic Regulation. However, in view of the size of the sample which concerned 4 groups with many companies involved, the Commission concludes, in accordance with Article 17(3) of the basic Regulation, that no individual examination of exporting producers in the PRC not included in the sample can be granted because this would be unduly burdensome and would prevent completion of the investigation in good time.

The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of the following companies:

(a) Union producers:

- Borbet group - Borbet Solingen GmbH — Germany
- Heyes Lemmerz group - HL Alukola Czech Republic; HL Italy
- Ronal group - Ronal Switzerland; Ronal Polska; Ronal-Speedline Italy
- Mapsa S. Coop. L. — Spain
- AEZ — Germany
- Française de Roues S.A.S.V. — France

(b) Exporting producers and their related companies in the PRC:

- Baoding Lizhong Wheels manufacturing Co. Ltd. (Baoding)
- Zhejiang Wanfeng Auto Wheel Co. Ltd (Wanfeng)

— YHI Manufacturing (Shanghai) Co., Ltd (YHI)

— CITIC Dicastal Wheel Manufacturing (CITIC)

(c) Related companies in the Union:

— OZ Deutschland, Biberbach (Germany)

— OZ SpA, Bassano del Grappa (Italy)

(d) Related companies in Singapore:

— OZ Asia

— YHI Manufacturing

(e) Users:

— Renault — France

— BMW — Germany

After initial investigations by a committee of experts, the Commission decided on 10 May 2010 to impose a provisional anti-dumping duty of 20.6% of the net border sales price for a period of 6 months from 12 May 2010. (*COMMISSION REGULATION (EU) No 404/2010 of 10 May 2010*).

Following the completion of the full investigation process by the Committee of Experts and after consideration by the Commission, a **definitive anti-dumping duty of 22.3%** is imposed on 25 October 2010 for a **period of five years** (*COUNCIL IMPLEMENTING REGULATION (EU) No 964/2010 of 25 October 2010*).

5.3. Review of the case

Knowing, of course, the market for which they are responsible, the European Union Wheel Association (EUWA) will, in the course of 2014, carry out an analysis of the impact on this market of the anti-dumping measures adopted in 2010 and the general situation up to 2014 in order to determine whether there had been a favourable reaction on the part of Chinese exporters, offsetting previous imbalances, or whether, on the contrary, these practices were still in force.

In the light of the data obtained by the EUWA, the latter verified that

- Chinese exporters continued to dump by exporting to Europe with the same scale of subsidised prices as before, despite the anti-dumping measures. We provided evidence of this to the Commission.
- Although there was already a large surplus of aluminium capacity in the Chinese market in 2009, it continued to grow to 9.2 million tonnes in 2015, which is much higher than any estimate of the need for Chinese industry even up to 2020. (*OVERCAPACITY IN CHINA: An Impediment to the Party's Reform Agenda*, Roland and Berger for the European Chamber, 2016)
- Aluminium has a cost impact of 50% on the total cost of a wheel. China will definitely further promote the production of aluminium products to reduce its overcapacity. Instead of exporting primary aluminium, China will look for value-added products, such as aluminium car wheels. In fact, this has been China's main policy, as can be seen for many different products. There is a real risk that the EU would be flooded with dumped and subsidised aluminium wheels from China if anti-dumping measures were removed.
- China also has a surplus production capacity of aluminium wheels. In fact, as can be seen in a report by China Automotive, the Chinese had a surplus capacity of 60 million wheels, which is more than the production of all EU producers combined.

To support these claims, the EUWA provided extensive technical and commercial detail of the European but also the Chinese market, on the basis of which it could be shown that the prices at which imports were made were artificial and unjustifiable.

This technical-economic information included aspects such as

- Current production and maximum production capacity
- Capacity utilisation
- Sales in the EU
- Unit sales price according to wheel type in different markets: EU, USA, Brazil, Japan, Korea and China (main car producers in the world)
- European cost calculation (global figures) for main wheel production countries EU, USA, Brazil, Japan, Korea and China, including:
- Raw materials
- Labour cost

- Manufacturing overheads
- Total Cost of Manufacturing
- Estimation of indirect costs: selling, general and administrative costs
- Full cost per unit according to wheel type
- Estimation of total employment: direct and inducted number of jobs
- Estimation of productivity (number of wheels produced per job)
- Investments
- Reference list all alloy wheel producers in EU, USA, Brazil, Japan, Korea and China
- Reference list of all alloy wheel importers in the 28 Member States of the European Union
- List of main users in the EU (basically mayor car manufacturers established with assembly plants in Europe).

This is highly sensitive information and, because the EUWA must - and does - respect competition and anti-trust laws (EUWA's competition and anti-trust policy), the compilation of all this data is NOT done directly by the EUWA from information provided by its members, but by a neutral third party responsible for the confidentiality of the data. In this case, it is a top-level international consultancy firm after signing the corresponding confidentiality agreements.

5.4. The submission of the request for review to the EU

In order to begin the process of reviewing the situation and the measures adopted, the applicant must give a brief reasoned account of the previous situation, the events that have taken place since the measures were implemented, the current situation and the future prospects of the markets and agents affected.

For this reason, the President of the EUWA - Mr Marc Hendricks - sends an introductory letter to the Head of the Directorate-General for Competition of the European Commission, Mr Leopoldo Rubinacci, in which he explains in his first paragraph: *"As explained EUWA is very concerned by this case (antidumping measures prolongation) for a variety of reasons. The main concern is of course that the current measures would be eliminated. This will have an immediate impact because the Chinese manufacturers are certified by the car industry and can start exporting their wheels - the very same wheels which they now supply to the European car industry in China - immediately once the duty expires.*

They will gain a 22.3% advantage in the form of the elimination of the anti-dumping duty. The users, the car industry, will no longer have to pay the anti-dumping duty and will certainly use this to put severe pressure on EU producer's prices. Our market is extremely transparent and thus price sensitive, since the car manufacturers tend to order identical wheels from different manufacturers. Consequently, EU producers will be given a choice between reducing prices to meet the Chinese competition or losing orders or a combination thereof. It should be born in mind that even a small loss of volume will have a direct impact on our costs and profitability. A 10% decrease in price would push all EUWA members back into lossmaking. A 10% decrease in volume of sales would do the same! Consequently, the profit which some of us are now making will disappear and we will be back in the situation we were in 6 years ago with one big difference: in 2010 the overcapacity of aluminium and aluminium wheels was not as big as it is now . . .". On a simple reading of the letter (the full letter is public and is part of the file held by the Commission), it can be seen that the situation, far from improving, has worsened considerably and that the measures in question need to be reviewed and renewed.

Thus, on 27 October 2015, the European Commission announced the initiation of *an expiry review of the anti-dumping duty imposed on imports of wheels from China (Announcement 2015/C 355/06 - Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain aluminium wheels originating in the People's Republic of China)*. This expiry review follows a request lodged on 16 July 2015 by the European Wheel Manufacturers Association (EUWA) on behalf of producers representing more than 25% of EU production of the products concerned.

It is very important to highlight two aspects contained in the notice of initiation of the investigation itself:

In Item 4, Grounds for the review, it says that *"The request is based on the grounds that the expiry of the measures would be likely to result in continuation of dumping and recurrence of injury to the Union industry."*

Whereas in item 4.1. Allegation of likelihood of continuation of dumping, states that *"Since, in view of the provisions of Article 2(7) of the basic Regulation, the People's Republic of China ('the country concerned') is considered to be a non-market economy country, the applicant established normal value for the imports from the country concerned on the basis of prices in a market economy third country, namely Turkey. The allegation of likelihood of continuation of dumping is based on a comparison of the normal value thus established with the export price (at ex-works level) of the product under review when sold for export to the Union. On this basis the dumping margin calculated is significant for the country concerned."*

In both cases, it seems clear that, even before starting the investigation, the European Union's Directorate-General for Competition is aware of the situation, since, despite its duty to be neutral in its investigations, it is fully informed of market developments in general, and of Chinese anti-competitive practices in general.

5.5. The reaction of the European automotive industry

It is clear that, faced with the possibility of being able to obtain cheaper components from China, regardless of whether or not these prices are the result of an illegal practice such as dumping, the European car industry reacted actively and in a coordinated manner, against the prolongation of the anti-dumping measures in force.

Then, mLex, a Lexis Nexi's Company, specialised in legal aspects related to Antitrust and Competition, Anti-bribery and Corruption, Trade and Legal Regulations, states in an article in October 2015 that *"BMW, Renault, Peugeot and other European carmakers are ramping up efforts for EU governments to end dumping duties on Chinese aluminum wheels, MLex has learned. The push comes as the European Commission investigates whether the 22.3 percent tariffs should continue for another five years."*(Anexo 7: BMW, Peugeot push for end of EU duties on Chinese Wheels)

The action of the companies is focused on the national governments since, although the investigation of the case and the proposal or not to take anti-dumping measures as well as their amount is carried out by a technical committee of neutral experts, this committee makes a proposal which must then be endorsed, modified or rejected by the Commission, which depends directly on the national governments subject to their respective political interests. Normally the Commission endorses the recommendations of the technical committee, but it is true that there have been a small number of politically sensitive cases in which the Commission, departing from technical orthodoxy, has taken decisions of a markedly political nature.

5.6. The final decision

Finally, on 25 January 2017, the European Commission extended the definitive anti-dumping duty on imports of alloy wheels from China following the completion of the above sunset review (*COMMISSION IMPLEMENTING REGULATION (EU) 2017/109 of 23 January 2017*), which ratifies the amount of anti-dumping protection existing to date for a further five years from the date of imposition, i.e. until 25 January 2022.

It is very important to stress that the information on which the decision is based is extremely comprehensive, based on very detailed field analysis. The scope of the analysis has included:

- European Union wheel producers:
 - Ronal
 - Borbet
 - Crommodora
 - Mapsa
- Importers and end users:
 - Inter Tyre Holland B.V., Moerdijk, the Netherlands
 - Bayerische Motoren Werke AG, Munich, Germany
 - FCA ITALY S.p.A, Turin, Italy
 - Opel Group GmbH, Ruesselsheim, Germany
- Producers in China
 - Baoding Lizhong Wheel Manufacturing Co.
 - Tianjin Dicastal Wheel Manufacturing Co, Ltd, Tianjin, the PRC
 - CITIC Dicastal Co. Ltd, Qinhuangdao, Hebei province, the PRC
 - Kunshan Liufeng Machinery Industry Co., Ltd, Kunshan, Jiangsu province, the PRC
 - Zhejiang Wanfeng Auto Wheel Co. Ltd, Xinchang, Zhejiang province, the PRC
 - Ultra Wheel Ningbo Co. Ltd, Ningbo, Zhejiang province, in the PRC
- Reference Producers in third countries:
 - CMS Wheel Manufacturing, Turkey
 - Cevher Wheels, Turkey.

6. LOCAL EXAMPLE FOR DISCUSSION - Case study: Impact on an industrial company of Navarra

Not only has the development of international trade and its consequences on wealth creation at world level been analysed from the point of view of the theoretical framework, but a brief mention has also been made of the reasons why internationalisation has this multiplier effect on growth. The factors which have made this evolution possible on a technological and social level have also been analysed, as well as how this has been affecting us on a level of productive specialisation.

On the other hand, it has been seen that the additional wealth that specialisation and internationalisation bring is always extremely attractive, both at a business level and at a government level, which is why, often, instead of betting on one's own improvement, the search for competitiveness is the main reason, defining a specific framework in which to concentrate efforts to achieve productive and commercial leadership, based on excellence, resorting to practices that are unhealthy or far removed from what is understood as "fair-play" in order to be able to artificially articulate competitive advantages that result in an unfair transfer of wealth from some companies and countries to others.

Faced with these situations, governments - in our case, the European Union - applying the regulations it has developed in this area, which are fully consistent with the trade agreements and rules established by the World Trade Organisation, act to restore the imbalances that arise from artificial competitive practices or advantages.

The case study on the import of aluminium alloy wheels presented shows in a practical way one of these situations, analysing its origin and cause, detailing the procedure used and finally establishing the countermeasures - or anti-dumping regulations - which need to be introduced to re-establish the natural balance on the market.

This case has not only been chosen because of the interest of international trade from a macroeconomic point of view at a generic level, but also because it directly affects one of the leading companies in the sector, located precisely in the Autonomous Community of Navarre. We are talking about MAPSA Sociedad Cooperativa.

Navarra is a strong industrial region, home to many important companies in the automotive, food processing or renewable energy sectors. MAPSA produces almost three million aluminium wheels a year, supplied to 22 plants in Europe to provide its customers with different models: Peugeot, Citroën, Opel, Toyota, Volkswagen, Seat, Ford, Kia . The key to success in this sector is continuous process improvement, and the cooperative's Orkoien plant has a great success story to tell in terms of improving productivity.

MAPSA Sociedad Cooperativa is part of the Mondragon Corporation and is one of the only two plants producing aluminium wheels in Spain. It has its industrial facilities in Orkoien, Navarra. Although its activity dates back to 1957, MAPSA became a cooperative in 1991.

The company has been changing during this period and continues to gain day by day in knowledge, experience and skills to maintain its international competitiveness. In the words of its Managing Director, "we are all improving and we see ourselves capable of doing more as we move forward and accumulate knowledge and experience".

In 2000 the company was designated by Opel as "Supplier of the Year for Alloy Wheels" for its quality and production standards, and MAPSA currently holds all the quality and environmental certificates (ISO 9000, ISO TS, ISO 14001, etc.) that characterise a company of this level.

Dedicated to the production and sale of alloy wheels for cars, manufactured under low pressure, MAPSA produces parts ranging in size from 15 inches and just over 8 kilos in weight to 20 inches and 15 kilos. MAPSA makes more than 60 types of alloy wheel and supplies its products to 22 European plants to equip many of its customers' models, selling its products to the world's leading car manufacturers: Peugeot, Citroën, Opel, Toyota, Volkswagen, Seat, Ford, Kia, Skoda. 120 million a year, employing almost 600 people directly and almost as many indirectly.

In the last five years, MAPSA has undertaken an aggressive growth and investment plan that has led it to almost double its market presence, going from 1.5 million tyres supplied in 2009 to almost three million in 2019. However, all this growth, investment, employment generation and, in short, wealth creation for the Community of Navarra, could have come to nothing had it not been for the decisive action taken by the European Union to penalise dumping practices by Chinese producers.

As stated earlier, China has decided to opt for rapid industrialisation and conquest of international markets, and to this end "redistributes" its internal wealth in such a way as to "focus" it on the objectives it aims to achieve without regard to market or competitiveness reasons.

6.1. The source of "artificial" competitiveness

In this particular case, the government of this country provides its local manufacturers with three key elements of competitiveness: subsidised raw materials and energy, and extremely soft financing.

The basic raw material for the manufacture of rims is aluminium, which, depending on the evolution of the price of raw materials, constitutes approximately 45 to 50% of the total cost of a rim.

- For strategic reasons, in the 1970s, China made a strong commitment to mining and refining of raw materials, becoming the world's leading producer of iron, basic steel and aluminium, without taking into account the previously existing installed capacity. As a result of these decisions, at present, in the specific case of aluminium, there is an overcapacity installed of approximately 25% of global demand, which has led it to transfer this surplus raw material to the processing industry below its real value in order to give it greater added value and thus be able to place its production. Considering the strong weight (around 50%) of the raw material in the total cost of a tyre, any subsidy applied to it immediately translates into an unquestionable competitive advantage. Where is this situation evident? In the fact that if, instead of buying the wheels, any European producer wants to buy aluminium on the same conditions and from the same Chinese raw material producers, the prices to be paid are significantly different (around 50% higher). (Harvey, 2020)

- The same is true of energy, where for decades China has led the growth in power generation to be used for subsidised and coal-polluting industrialisation as a base, but more recently has also made huge public investments to increase its energy production capacity, in this case through nuclear power and wind power. Since tyre production is an energy-intensive activity - the nuclear activity of its process is that of metal casting - any subsidy of a factor representing 6 to 8% of the total cost is again decisive in its international competitiveness. Once again, the cost of energy for certain "key" industries decided by the state is different from that of others, including foreign plants in China, so this practice becomes a totally illegal subsidy. (Wikipedia).
- The third key element is the investment capacity of these Chinese companies (CITIC is the world's largest producer of aluminium wheels), derived from the fact that they are 100% publicly owned companies. The access to financing is unlimited, not only for their organic growth, but also for the acquisition of companies that can provide them with the necessary technology. On the other hand, the return on investment is measured in strategic or social terms and not exclusively in economic terms, which is why their investment capacity, together with their low level of economic returns, implies a radically privileged position in their market, incomparable to that of any other company worldwide. (Brooks, 2011)

6.2. The consequences of the introduction of anti-dumping measures

Although during the verification process carried out by the inspectorate of the European Union's international trade unit, a wide range of aid classified as illegal by the WTO was detected, the EU Competition Directorate focused its attention on the first two chapters mentioned as being those on which the most evidence could be established. Following the completion of the full investigation process by the Committee of Experts and after consideration by the Commission, a definitive anti-dumping duty of 22.3% is imposed on 25 October 2010 for a period of five years (COUNCIL IMPLEMENTING REGULATION (EU) No 964/2010 of 25 October 2010).

The consequences on the market were immediate, as with this penalty rate, Chinese production was placed on an equal footing with European production, and in view of this, and more particularly linked to the transport factor - due to the useful volume of load

occupation, tyres "travel badly" - European customers inclined their orders towards European suppliers and, as Mapsa is very competitive in terms of prices, service and quality, it was able not only to recover its market share, but also to achieve the solid growth that has just been mentioned.

7. CONCLUSIONS

7.1. Global conclusions

As has been described throughout this work "*Anti-dumping measures: a step back in international trade or a legitimate reaction against unfair practices*" it can be observed not only that international trade has been a very important tool for economic development but that, precisely for this very reason, it is the object of a permanent search for growth. This growth has a particular impact on exporting countries for the many reasons mentioned above - generation of employment, foreign exchange earnings, etc. - which is why it is often subject to illegitimate practices in order to maximise it.

Among the various practices mentioned, particular emphasis is placed on the most widespread practice among countries willing to contravene the fair play of international trade: dumping.

It indicates its meaning, the various ways in which it occurs, why it cannot and should not be tolerated, its consequences and, finally, it describes the tools available to the World Trade Organisation at the global level and to the European Union in our field to combat and neutralise such bad practices.

A description is given of the process of investigating a case of potential dumping, to finally present a real case that is close to our local industry in Navarra: commercial dumping by Chinese industry in the manufacture of aluminium rims, which in this case is carried out by the Mondragon Group Cooperative MAPSA S. Coop. of Orkoien.

As a final conclusion, and as a compendium, we present an excerpt from the La Vanguardia article "*China was the main target of EU trade defence measures in 2019*" of May 4, 2020, which will serve to give us an idea of the magnitude and impact that this illegitimate practice has had on the European Union only throughout 2019:

This article is very eloquent: "*China was the country with the highest number of European Union (EU) trade defence measures in 2019, the year in which the Community block increased anti-dumping or anti-*

subsidy duties on unfair imports, according to an annual report published on Monday by the European Commission (EC).

In total, the EC opened 16 new investigations in 2019 compared to 10 in the previous year and imposed 12 new measures compared to 6 in 2018.

At the end of 2019, the EU had a total of 140 trade defence measures in force, 5% more than a year before, including 121 anti-dumping measures, 16 anti-subsidy measures and three safeguards.

The largest number of trade defence measures imposed by the EU concerned imports mainly from China (93), Russia (10), India (7) and the United States (6).

According to the EC study, the anti-dumping or anti-subsidy duties imposed in 2019 led to an 80% average fall in unfair imports into the EU and protected more than 23,000 more EU jobs than the previous year. ”

Related to the potential effects that COVID-19 may have, we can think about a change of tendency in the evolution of globalisation. According to Elcano Royal Institute, globalisation since 1990 can be divided into three phases: (a) an initial phase of deglobalisation between 1990 and 1995, coinciding with the geopolitical reconfiguration of Europe, when the aggregate global presence fell by an annual average of -0.7%; (b) a second period of sustained globalisation between 1995 and 2011, with a cumulative increase of 43%, equivalent to an annual average of 2.7%; and (c) the current phase, with moderate increases and decreases and annual averages of just under 1% (Olivié, Gracia, 2020)

The health, economic, social and political crisis created by the COVID-19 pandemic will also reconfigure international relations and globalisation. Similar to the 2008 crisis, the current pandemic and its consequences could precipitate a slowdown in globalisation or even result in a process of deglobalisation. Nobody can precisely predict what will happen but, at least, three specific scenarios can be analysed (Olivié, Gracia, 2020).

In the first scenario, we assume the structural effects on globalisation will be similar to the crisis at the end of the 2000s, both in terms of volumes and nature, allowing the features of globalisation –in all its dimensions, economic, military and soft– to remain intact.

In the second, we assume a deeper impact, comparable to the more significant reductions in each variable during the previous crisis, with a deeper fall in global exchanges, in all areas. Under this scenario, the world will experience an episode of deglobalisation, with a 10% reduction in the soft dimension and a 9% reduction in the economic dimension.

The third and final scenario seeks to account for the specific features compared to the previous one. Here, globalisation will remain intact, particularly in the soft dimension, largely due to the information, technology and science variables.

What we don't know really is how situation will develop, but at least a minimum attention must be paid in order to ensure that such an important event is present in any analysis we can make of economy behaviour.

Anyway, Chinese anti-competitive practices have been a constant since the beginning of its opening to world trade.

These practices have been monitored, controlled and very often penalised by the third countries that are victims of them. These penalties have been applied largely because China is still seen as the object of practices that distort normal competition, which is why for years China has been carrying out intense diplomatic work in order to be recognised as a "Market Economy" (Dinero.com, (n.d.))

It would be very interesting to investigate and analyse what would be the consequences of China finally reaching the "Market Economy" status; what would happen with the anti-dumping measures currently in force and what would be the corrective mechanisms applicable in case of new anti-competitive

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